

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

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KELLEY FOODS OF ALABAMA, INC.

PLAINTIFF

VERSUS

DR. JRA P. HACKETT, CLERK
U.S. DISTRICT COURT
MIDDLE DISTRICT ALA

MYERS NISSI & CO., INC., a corporation,
d/b/a VERTICALSOFT

DEFENDANT

DEFENDANT'S WITNESS LIST

NOW INTO COURT, through undersigned counsel, comes defendant, Myers Nissi & Co., Inc., and pursuant to the Court's scheduling order entered in this matter, provides the following list of witnesses who may be called to testify on its behalf at trial:

1. Richard Nissi
Myers Nissi & Co., Inc.
5 Pond Park Road, Suite 2
Hingham, MA 02189
2. Don Tyler
Myers Nissi & Co., Inc.
5 Pond Park Road, Suite 2
Hingham, MA 02189
3. Jim Stoltz
Myers Nissi & Co., Inc.
5 Pond Park Road, Suite 2
Hingham, MA 02189
4. Jack Reynolds
Myers Nissi & Co., Inc.
5 Pond Park Road, Suite 2
Hingham, MA 02189

5. **Edwin Kelley**
Kelley Foods of Alabama, Inc.
Coffee County Road #404
Alba, AL 36323
6. **Alex Mount**
Kelley Foods of Alabama, Inc.
Coffee County Road #404
Alba, AL 36323
7. **Scott Kelley**
Kelley Foods of Alabama, Inc.
Coffee County Road #404
Alba, AL 36323
8. Any witness listed by any other party
9. Any witness not listed above who is necessary to rebut the testimony of any witness called by any other party.

Respectfully submitted,

By 
JOHN M. HERKE (#HER045)
PAUL D. PALERMO T.A. (#19725)
SPYRIDON, KOCH, PALERMO &
DORAN
3838 N. Causeway Blvd.
Three Lakeway Center, Suite 3010
Metairie, Louisiana 70002
Telephone: (504) 830-7800
Facsimile: (504) 830-7810
Counsel for Myers Nissi & Co., Inc.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading has been mailed to all parties to this proceeding, by mailing a copy of same to each by First Class United States mail, properly addressed and postage prepaid on this 20th day of Oct, 2005.

defendants witness list.wpd

DRM